

Edmond Nassirzadeh, Esq. SBN 201833

**NASS LAW FIRM**

9454 Wilshire Blvd., Suite 700

Beverly Hills, California 90212

Tel: 310-858-7755

Fax: (310) 858-2255

ed@nasslawfirm.com

Attorney for Debtor and Defendant,

PETER PEDROM ETESAMNIA

**UNITED STATES BANKRUPTCY COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

**LOS ANGELES DIVISION**

In re

PETER PEDROM ETESAMNIA,

Debtor

KOUROSH MALEKAN,

Plaintiff,

vs.

PETER PEDROM ETESAMNIA

Defendant.

Bankruptcy Case No.: 2:12-bk-43661-TD

Adversary Case No.: 2:13-ap-01695-TD

**DEFENDANT PETER P.  
ETESAMNIA'S REPLY TO  
PLAINTIFF'S OPPOSITION TO  
DISMISS SECOND AMENDED  
ADVERSARY COMPLAINT**

*[Filed Concurrently with Request for Judicial  
Notice]*

Hearing Date:

Date: November 12, 2014

Time: 10:00 a.m.

Courtroom: 1345

255 E. Temple Street

Los Angeles, California 90012

1 TO THE HONORABLE THOMAS B. DONOVAN, TO THE PLAINTIFF  
2 KOUROSH MALEKAN AND ITS COUNSEL OF RECORD, THE OFFICE OF THE  
3 UNITED STATES TRUSTEE, AND TO INTERESTED PARTIES:

4 COMES NOW, DEFENDANT PETER P. ETESAMNIA AND REPLIES TO  
5 PLAINTIFF'S OPPOSITION TO DISMISS SECOND AMENDED ADVERSARY  
6 COMPLAINT AS FOLLOWS:

7 The United States Supreme Court case of Ashcroft v. Iqbal, 556 U.S. 662 (2009), is  
8 without a doubt the leading and controlling case with regards to pleading requirements in  
9 all federal cases, and as discussed below, despite this Court's specific request, at the last  
10 hearing, that an analysis of Ashcroft is necessary, Plaintiff has decided not to discuss this  
11 case in his opposition and simply discount it by claiming it is inapplicable! (Plaintiff's  
12 Opposition, Page 9, Lines 15-16).

13 Plaintiff is clearly avoiding discussing the pleading requirements outlined in Ashcroft,  
14 because even after amending his Complaint twice, Plaintiff's allegations in the Second  
15 Amended Complaint are still not able to sufficiently allege a plausible claim against  
16 Defendant. Plaintiff has written the Court a nice "story" that he wishes this Court to believe  
17 as true and plausible without any specify as to time, place, specific representations, action or  
18 inactions. Hence, Plaintiff's story does not and cannot amount to a plausible claim.

19 If the "well-pleaded facts" do not allow the court to infer "more than the mere  
20 possibility of misconduct," then dismissal under Rule 12(b)(6) is appropriate. Ashcroft v.  
21 Iqbal, 556 U.S. 662, 679 (2009). Here the Plaintiff has argued and alleged that the businesses  
22 or entities that Defendant and his partner were in control of and which Plaintiff invested in,  
23 failed due to Defendant's misconduct. However, no specificity is alleged in the Second  
24 Amended Complaint as to what this alleged conduct was, where it took place, and how  
25 Plaintiff relied on it. Again, Plaintiff's allegations are nothing more than a mere "possibility  
26 of misconduct" by Defendant which clearly is not sufficient to get past a Motion to Dismiss.

27 In fact, Plaintiff himself admits that "Plaintiff can now withdraw the alter ego and  
28 other superfluous allegations [in the Second Amended Complaint]" (Plaintiff's Opposition,

1 Page 5, Footnote 3, line 27). The reason for this admission by Plaintiff is simple, which is  
2 that even Plaintiff is aware of the fact that the allegations in the Second Amended Complaint  
3 are simply superfluous and without any substance.

4 Furthermore, Jalinous Nehouray who was Defendants' partner in the business  
5 entities that have failed, has signed a Declaration under penalty of perjury in support of  
6 Plaintiff's Motion For Good Faith Settlement which he testifies in pertinent part: "Plaintiff  
7 made an investment in Pars Mint, Inc. and Empire Global Mint, Inc., to create, mint and  
8 to distribute three specific commemorative coins featuring (1) the characters from the TV  
9 show the Simpsons, (2) Playboy Playmates, and (3) Amir Kabir, an historical Iranian  
10 figure." (Declaration of Jalinous Nehouray, Page 8 of Motion for Good Faith Settlement,  
11 Lines 11-13) (Request for Judicial Notice, filed concurrently, Exhibits "A".) ("RFJN")  
12 Immediately after entering into the agreement with Plaintiff, Pars Mint and Empire


13 Nehouray goes on to testify that: "Global Mint began working on these three projects.  
14 Among other things, they obtained licenses from Twentieth Century Fox and Playboy to use  
15 images from their respective libraries on the coins. They hired designers to create the  
16 images and to design the coins. They hired third parties to create the molds necessary to  
17 manufacture the coins. They purchased substantial amounts of precious metals to be used in  
18 the manufacturing of the coins. They then minted sample coins for Playboy and fully  
19 manufactured all of the coins for Amir Kabir. They created packaging and marketing  
20 materials, received orders, and otherwise began to create and distribute the coins," however,  
21 "Due to the timing of the investment -- in 2007, just before the world markets fell into the  
22 greatest recession since the Great Depression -- these projects were unsuccessful, the monies  
23 invested in the three projects were spent, and each project was a resounding failure" and  
24 "Because the payments by Plaintiff to the Settling Defendants [Jalinous Nehouray, Pars  
25 Mint, Inc., and Empire Global Mint, Inc.] were in the form of an investment, not a loan, I do  
26 not believe that Plaintiff is owed any money." (Declaration of Jalinous Nehouray, Page 8 of  
27 Motion for Good Faith Settlement, Lines 14-26) (RFJN, Ex. "A")  
28

1           Essentially, Defendant's partner confirms that the monies were just an investment  
2 into companies or business that failed.

3           Based on the foregoing and the Motion to Dismiss filed herein, the Defendant  
4 respectively requests that the Court dismiss the Second Amended Complaint without leave  
5 to amend.

6  
7 Dated: November 6, 2014

**NASS LAW FIRM**

8  
9 By:   
Edmond Nassirzadeh, Esq.

**PROOF OF SERVICE OF DOCUMENT**

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

9454 Wilshire Boulevard  
Suite 700  
Beverly Hills, CA 90212

A true and correct copy of the foregoing document described as DEFENDANT PETER P. ETESAMNIA'S REPLY TO PLAINTIFF'S OPPOSITION TO DISMISS SECOND AMENDED ADVERSARY COMPLAINT will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

**I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On November 6, 2014, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

Bruce G Landau bgl26@aol.com  
Jason M Rund (TR) trustee@srlawyers.com, jrund@ecf.epiqsystems.com  
United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov  
A David Youssefyeh david@adylaw.com

☐ Service information continued on attached page

**II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL** (indicate method for each person or entity served):

On November 6, 2014, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Honorable Thomas B. Donovan  
United States Bankruptcy Court - Central District of California  
Edward R. Roybal Federal Building and Courthouse  
255 E. Temple Street, Suite 1352 / Courtroom 1345  
Los Angeles, CA 90012

☐ Service information continued on attached page

**III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL** (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on \_\_\_\_\_, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

November 6, 2014

Edmond Nassirzadeh Esq.

Date

Type Name

Signature

